

allocated between the ICF/MR operations and other activities or facilities unrelated to the ICF/MR operations based on the ratio of total operating costs determined as follows:

(a) The numerator for the allocation ratio shall be determined as follows:

i. For facilities that are related organizations or are controlled by a central, affiliated or corporate office under a management agreement, the numerator of the allocation ratio shall be equal to the sum of the total operating costs incurred by each related organization or controlled facility.

ii. For a central, affiliated or corporate office providing goods or services to related organizations that are not intermediate care facilities for persons with mental retardation or related conditions, the numerator of the allocation ratio shall be equal to the sum of the total operating costs incurred by the non-ICF/MR related organizations.

iii. For a central, affiliated or corporate office providing goods or services to unrelated intermediate care facilities for persons with mental retardation or related conditions under a consulting agreement, the numerator of the allocation ratio shall be equal to the greater of directly identified central, affiliated or corporate costs or the contracted amount.

iv. For business activities that involve the provision of goods or services to unrelated parties which are not intermediate care facilities for persons with mental retardation or related conditions, the numerator of the allocation ratio shall be equal to the greater of directly identified costs or revenues generated by the facility or function.

(b) The denominator for the allocation ratio is the sum of the numerators in subclauses i to iv of clause (a).

(4) Those long term care operations that have intermediate care facilities for persons with mental retardation or related conditions both in Minnesota and outside of Minnesota must:

(a) Allocate the facility operation's central, affiliated or corporate office costs identified in item B, subitem (3) to Minnesota based on the ratio of total resident days in Minnesota facilities to the total resident days in all facilities.

(b) Allocate the Minnesota facility operation's central, affiliated or corporate office costs identified in clause (a) to each Minnesota facility on the basis of resident days.

(5) Definitions. For purposes of item B, the following have the meanings given them.

(a) "Management agreement" means an agreement in which one or more of the following criteria exist:

i. The central, affiliated or corporate office has or is authorized to assume day-to-day operation control of the intermediate care facility for persons with mental retardation or related conditions for any six-month period within a 24-month period. "Day-to-day operation control" means that the central, affiliated or corporate office has the authority to require, mandate, direct, or compel the employees of the facility to perform or refrain from performing certain acts, or to supplant or take the place of the top management of the facility. Day-to-day operational control includes the authority to hire or terminate employees or to provide an employee of the central, affiliated or corporate office to serve as an administrator of the facility.

ii. The central, affiliated or corporate office performs or is authorized to perform two or more of the following: the execution of contracts; authorization of purchase orders; signature authority for checks, notes, or other financial instruments; requiring the facility to use the group or volume purchasing services of the central, affiliated or corporate office; or the authority to make annual capital expenditures for the facility exceeding \$50,000 or \$500 per licensed bed, whichever is less, without first securing the approval of the facility board of directors.

iii. The central, affiliated or corporate office becomes or is required to become the licensee under applicable state law.

iv. The agreement provides that the compensation for services provided under the agreement is directly related to any profits made by the facility; or

v. The ICF/MR entering into the agreement is governed by a governing body that meets fewer than four times a year, that does not publish notice of its meetings, or that does not keep formal records of its proceedings.

(b) "Consulting" agreement means any agreement the purpose of which is for a central, affiliated or corporate office to advise, counsel, recommend, or suggest to the owner or operator of the non-related intermediate care facility measures and methods for improving the operations of the intermediate care facility.

(6) This section does not apply to payment rates determined under Sections 14.000 and 15.000, except that any additional directly identified costs associated with the Department of Human Services' or the Department of Health's managing agent under a receivership agreement must be allocated to the ICF/MR under receivership, and are nonallowable costs to the managing agent on the facility's cost report.

C. Central, affiliated, or corporate office property-related costs of capital assets used directly by a facility in the provision of ICF/MR services must be classified to the property-related cost category of the facility which uses the capital asset. Central, affiliated, or corporate office property-related costs of capital assets that are not used directly by a facility in the provision of ICF/MR services must be allocated to the administrative cost category of each facility using the methods described in item B.

D. The useful life of a capital asset maintained by a central, affiliated, or corporate office must be determined as in Section 9.010, item B.

Section 3.043 Central, affiliated, or corporate office costs for rate years beginning on or after October 1, 1996. Cost allocation for central, affiliated, or corporate offices for rate years beginning on or after October 1, 1996 shall be governed by items A to F.

A. Central, affiliated, or corporate office salary expense representing services of consultants required by law or rule in areas including dietary, pharmacy, program, or other resident care related activities may be allocated to the appropriate cost category, but only to the extent that those costs are directly identified by the facility.

B. Central, affiliated or corporate office costs representing services of consultants not required by law in the areas of program, quality assurance, medical records, dietary, other care related services, and plant operations may be allocated to the appropriate operating cost category of a facility according to subitems (1) to (5).

(1) Only the salary, fringe benefits, and payroll taxes associated with the individual performing the service may be allocated. No other costs must be allocated.

(2) The allocation must be based on direct identification and to the extent justified in time distribution records which show the actual time spent by the consultant performing services in the facility.

(3) The cost in subitem (1) for each consultant must be allocated to only one operating cost category in the facility. If more than one facility is served by a consultant, all

facilities must allocate the consultant's cost to the same operating cost category.

(4) Top management personnel are not considered consultants for purposes of this item.

(5) The consultant's entire job responsibility is to provide the services identified in this item.

C. Except as provided in items A and B, central, affiliated, or corporate office costs must be allocated to the administrative cost category of each facility within the group served by the central, affiliated, or corporate office according to subitems (1) to (5).

(1) All costs that can be directly identified with a specific facility must be allocated to that facility.

(2) All costs that can be directly identified with a specific operation unrelated to the facility's operation must be allocated to that unrelated operation.

(3) After the costs that can be directly identified according to subitems (1) and (2) have been allocated, the remaining central, affiliated or corporate office costs must be allocated between the facility operations and unrelated operations based on the ratio of expenses.

(4) Next, operations that have facilities both in Minnesota and outside of Minnesota must allocate the central, affiliated, or corporate office costs to Minnesota based on the ratio of total resident days in Minnesota facilities to the total resident days in all facilities.

(5) Finally, the facility related central, affiliated, or corporate office costs must be allocated to each facility based on resident days.

D. Central, affiliated, or corporate office property-related costs of capital assets used directly by a facility in the provision of ICF/MR services must be classified to the property-related cost category of the facility that uses the capital asset. Central, affiliated, or corporate office property-related costs of capital assets that are not used directly by a facility in the provision of ICF/MR services must be allocated to the administrative cost category of each facility using the methods described in item C.

E. The useful life of a capital asset maintained by a central, affiliated, or corporate office must be determined as in Section 9.010, item B.

F. A governmental or nonprofit organization that has a federally approved cost allocation plan may allocate management fees or central office costs to a related organization based on the governmental or nonprofit organization's federal cost allocation plan. The provider must document that the allocation plan has been approved by the federal government.

Section 3.050 Allocation of costs to related or nonrelated organizations. A facility's costs associated with services or goods provided by the facility to a related or nonrelated organization must be allocated on the basis of items A to C.

A. Costs of services must be allocated based on the documentation of time spent performing the service by each individual providing services to the related organization or nonrelated organization. All identifiable expenses including salary, fringe benefits and payroll taxes, travel, and supplies of an individual providing services for related organizations or nonrelated organizations must be allocated based on the ratio of actual time spent performing the services for each related or nonrelated organization.

B. The cost of goods sold to or used by a related organization or nonrelated organization must be directly allocated to the organization. The cost of goods sold to or used by more than one organization must be allocated proportionally to each related organization or nonrelated organization based on a reasonable estimate of actual use.

C. The cost of goods or services allocated to a related organization or nonrelated organization must not be an allowable cost for the facility.

Section 3.060 Payroll tax and fringe benefit cost allocation. A facility's payroll taxes and fringe benefits reported in the payroll taxes and fringe benefit cost category must be classified to the program operating cost category, the maintenance operating cost category, and the administrative operating cost category based on direct identification or an allocation using the ratio of allowable salary costs in each of those cost categories to total allowable salary costs.

SECTION 4.000 DETERMINATION OF ALLOWABLE COSTS.

Section 4.010 Allowable costs. Only costs determined to be allowable may be used to compute the total payment rate for facilities participating in the medical assistance program.

Section 4.020 Licensure and certification costs. The costs of meeting the applicable licensure and certification standards listed in items A to E are allowable costs for the purpose of setting the facility's total payment rate unless otherwise provided. The standards are:

A. federal regulations for ICF/MR services;

B. requirements established by the Department for meeting program licensing standards and standards for aversive and deprivation procedures;

C. requirements established by the Department of Health for meeting health standards as set out by state rules and federal regulations;

D. requirements to comply with changes in federal or state laws and regulations; and

E. other requirements for licensing under federal or state law, state rules, federal regulations, or local standards that must be met to provide ICF/MR services.

Section 4.030 Service costs. The costs of services including program, maintenance, administrative, payroll taxes and fringe benefits, and property-related costs are allowable costs for the purpose of setting the facility's total payment rate unless otherwise stated.

Section 4.040 Applicable credits. Applicable credits must be used to offset or reduce the expenses of the facility to the extent that the cost to which the credits apply was claimed as a facility cost. This cost principle does not apply to items A and B:

A. payments made by the Department to the provider for approved services for very dependent persons with special needs.

B. gifts and donations from nongovernmental sources.

Section 4.050 Adequate documentation. A facility shall keep adequate documentation.

A. In order to be considered adequate, documentation must:

(1) be maintained in orderly, well-organized files;

(2) not include documentation of more than one facility in one set of files unless transactions may be traced by the Department to the facility's annual cost report;

(3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a

breakdown of any allocation of costs between accounts or facilities. If any of the information to be listed on the invoice is not available, the providers shall document their good faith attempt to obtain the information;

(4) include copies of all written agreements and debt instruments to which the facility is a party and any related mortgages, financing statements, and amortization schedules to explain the facility's costs and revenues;

(5) if a cost or revenue item is not documented under subitem (3) or (4), the facility must document the amount, source, and purpose of the item in its books and ledgers following generally accepted accounting principles and in a manner providing an audit trail; and

(6) be retained by the facility to support the five most recent annual cost reports submitted to the Department. The Department may extend the period of retention if the field audit was postponed because of inadequate record keeping or accounting practice, or if the records are necessary to resolve a pending appeal.

B. Providers must document all consultant, professional, or purchased service contracts. They must maintain copies of all contracts and invoices relating to consultant, professional, or purchased services. These documents must include the name and address of the vendor or contractor, the name of the person who actually performed the services, the dates of service, a description of the services provided, the unit cost, and the total cost of the service.

C. Payroll records must be maintained by a facility and must show the amount of compensation paid to each employee and the days and hours worked. Complete and orderly cost allocation records must be maintained for cost allocations made among cost categories or facilities.

D. Documentation of mileage must be maintained in a motor vehicle log. Except for motor vehicles exclusively used for facility business, the facility or related organization must maintain a motor vehicle log for each vehicle used by the facility that shows personal and facility mileage for the reporting year. Mileage paid for the use of a private vehicle must be documented.

E. Payroll records supporting compensation costs claimed by ICFs/MR must be supported by affirmative time and attendance records prepared by each individual at intervals of not more than one month. The affirmative time and attendance record must identify the

individual's name, the days worked during each pay period, the number of hours worked each day, and the number of hours taken each day by the individual for vacation, sick, and other leave. The affirmative time and attendance record must include a signed verification by the individual and the individual's supervisor, if any, that the entries reported on the record are correct.

Section 4.060 Compensation for services performed by individuals. Compensation for services performed by individuals includes all the remuneration paid currently, accrued or deferred, for services rendered by the provider or employees of the facility. Only compensation costs for the reporting period are allowable.

A. Compensation includes:

- (1) salaries, wages, bonuses, vested vacation, vested sick leave, and employee benefits paid for managerial, administrative, professional, and other services;
- (2) amounts paid by the provider for the personal benefit of the provider or employees;
- (3) deferred compensation and individual retirement accounts (IRAs);
- (4) the costs of capital assets, supplies, services, or any other in-kind benefits the provider or employees receive from the facility or related organization, except the cost of capital assets, supplies, services, or other in-kind benefits incurred as a necessary cost for an employee who is required to supervise resident activities or to reside in the facility as a condition of employment; and
- (5) payments to organizations of nonpaid workers that have arrangements with the facility for the performance of services by the nonpaid workers.

For purposes of this item, in-kind benefit means benefit received in a medium other than cash for personal services performed.

B. The facility must have a written policy for payment of compensation for services performed by individuals. The policy must:

- (1) relate the individual's compensation to the performance of specified duties and to the number of hours worked by the individual. Only the compensation of persons employed by the hour must be stated in terms of an hourly wage. The number of hours

worked by salaried employees may be stated in terms of the average annual hours worked for each facility.

(2) result in compensation payable under the policy which is consistent with the compensation paid to persons performing similar duties in the ICF/MR industry. Employees covered by collective bargaining agreements are not required to be covered by the policy if the collective bargaining agreement otherwise meets the essentials of the policy required by this item.

(3) specify the nature and cost to the provider or provider group of any in-kind benefits included in the compensation.

C. Only services which are necessary services shall be compensated.

D. Except for accrued vested vacation and accrued vested sick leave, compensation must be actually paid, whether by cash or negotiable instrument, within 121 days after the close of the reporting year. If payment is not made within 121 days, the unpaid compensation must be disallowed in that reporting year. Payments made after the 121-day period are allowable in the reporting year made.

Section 4.070 Limitations on related organization costs. Related organization costs are subject to items A to D.

A. Costs applicable to services, capital assets, or supplies directly or indirectly furnished to the provider by any related organization may be included in the allowable cost of the facility at the purchase price paid by the related organization for capital assets or supplies and at the cost incurred by the related organization for the provision of services to the facility if these prices or costs do not exceed the prices of comparable services, capital assets, or supplies that could be purchased elsewhere. For this purpose, the related organization's costs must not include an amount for mark up or profit, except as provided in the following paragraph.

Except for the rental or leasing of facilities, if the related organization in the normal course of business sells services, capital assets, or supplies to nonrelated organizations, the allowable cost to the provider shall be no more than the price charged to the nonrelated organization provided that sales to nonrelated organizations constitute at least 50 percent of total annual sales of comparable services, or capital assets, or supplies.

B. Lease or rental costs paid to or by a related organization shall be allowed according to Section 9.070.

C. The cost of ownership of a capital asset owned by a related organization and used by the facility may be included in the allowable cost of the facility. When the capital asset is sold or otherwise disposed of by the related organization and the depreciation on the asset has been claimed as a facility cost, any gain realized from the sale by the related organization must be transferred to the facility as an offset in the facility's property-related cost category. The amount of gain to be offset shall be determined according to Section 9.010, item D.

D. A provider that sells, leases, or provides goods or services to a related organization or nonrelated organization shall allocate the cost of the goods or services to the related organization or nonrelated organization and identify the allocations in the facility's cost report.

Section 4.080 Capitalization. For rate years after September 30, 1986, the cost of purchasing or repairing capital assets shall be capitalized under items A to D.

A. The cost of purchasing a capital asset listed in the depreciation guidelines must be capitalized. The cost of purchasing any other capital asset not included in the depreciation guidelines must be capitalized if the asset has a useful life of more than two years and costs more than \$500.

B. Repairs that cost \$500 or less may be treated as an expense. Repairs that cost more than \$500 and that extend the estimated useful life of the asset by at least two years must be capitalized. Improvements made solely for the purpose of making an asset useful for purposes other than those for which it was originally used or more useful for the same purposes must also be capitalized if the cost exceeds \$500. Except for repairs necessitated solely as a result of destructive resident behavior, repairs treated as an expense must be classified in the maintenance operating cost category. Repairs necessitated solely as a result of destructive resident behavior and treated as an expense must be classified as a program operating cost.

C. Construction period interest expense, feasibility studies, and other costs related to the construction period must be capitalized and depreciated.

D. Items, such as land improvements whose maintenance or construction are not the responsibility of the provider, land, and goodwill, are not considered depreciable capital assets.

Section 4.090 Working capital interest expense. Working capital interest expense is allowed subject to the requirements of items A and B.

A. Working capital interest expense on working capital debt incurred prior to January 1, 1986, is allowed.

B. Working capital interest expense for facilities constructed or established after January 1, 1986, must be limited under subitems (1) and (2).

(1) For the interim and settle-up payment rates the total amount of working capital interest expense allowed must not exceed 2.5 percent of the facility's allowable historical operating costs during the interim reporting period.

(2) For the rate year which follows the settle-up, the total amount of working capital interest expense allowed must not exceed 80 percent of the allowable working capital interest expense as determined in the settle-up cost report.

Section 4.100 Retirement contributions. Retirement contributions for each employee must be limited to either a qualified pension plan or a qualified profit sharing plan submitted to, and approved by, the Internal Revenue Service. Retirement plans specified in Internal Revenue Code, sections 403(b) and 408(k) are also allowable.

Section 4.110 Therapeutic overnight trips, camping, and vacations for residents. The provider may use facility staff, supplies, equipment, and vehicles ordinarily provided as part of the facility program for therapeutic overnight trips, camping, and vacations for residents. In addition, up to \$300 per year per resident may be allowed for fees, tickets, travel, lodging, and meals while residents are away from the facility. Other costs may be paid from other funding sources such as voluntary contributions from residents, relatives, and fund raisers.

Section 4.120 Preopening costs. Preopening costs of newly established facilities shall be allowable as in items A to D.

A. Preopening operating costs of newly established facilities which are incurred within 30 days prior to admission of residents must be included in the facility's interim and settle-up cost reports.

B. Preopening costs of newly established facilities which are incurred more than 30 days prior to admission of residents must be capitalized as deferred charges and amortized over a period of not less than 60 consecutive months beginning with the month in which the first resident is admitted for care.

C. Preopening costs do not include property-related costs.

D. A newly constructed or newly established facility's preopening costs must be limited to only those costs incurred during one of the following periods, whichever is shorter:

(1) between the date the Department approves the facility's need determination and 30 days before the date the facility is certified for medical assistance; or

(2) the 12 month period immediately preceding the 30 days before the date the facility is certified for medical assistance.

Section 4.130 Top management compensation. For establishment of the allowable historical operating cost, annual compensation for top management personnel who perform necessary services shall be limited according to items A to F.

A. In no case shall the total compensation reimbursed to an individual for top management exceed \$61,431. A person who is included in top management personnel who performs necessary services for the facility or provider group on less than a full-time basis may receive as allowable compensation no more than a prorated portion of the maximum based on time worked.

B. If a person compensated for top management functions in a facility or organization is compensated for providing consultant services to that facility or organization, the compensation for consultant services, however designated, shall be subject to the top management compensation limitation.

C. Top management compensation shall not include the benefits of group health or dental insurance, group life insurance, pensions or profit sharing plans, and government required retirement plans.

D. If the fringe benefits paid to top management personnel are not provided to all or substantially all of the facility's employees at the same benefit level, that portion of the fringe benefits paid to top management personnel which is not provided to all or substantially all of the facility's employees shall be disallowed.

E. An individual compensated for top management services on a less than full-time basis for a facility or provider group may be compensated for performing other necessary services which the individual is qualified to perform. Compensation for another necessary service must be at the pay rate for that service except that the total compensation paid to an individual cannot exceed the limit in item A.

F. The percentage difference between the previous two Januarys prior to the beginning of the rate year, the all urban consumer price index (CPI-U) for Minneapolis-Saint Paul, as published by the Bureau of Labor Statistics, new series index (1967=100) shall be used to increase the top management compensation limitation in item A. The adjustment required by this formula shall be effective for the reporting year beginning on January 1, 1986, and each January 1 thereafter.

Section 4.140 General cost principles. The Department shall use the cost principles in this section to determine allowable costs:

- A. the cost is ordinary, necessary, and related to resident care;
- B. the cost is what a prudent and cost conscious business person would pay for the specific good or service in the open market in an arm's length transaction;
- C. the cost is for goods or services actually provided to the facility and the cost is actually paid for by the facility within 180 days after the close of the reporting year except as provided in Section 4.060, item D;
- D. the cost effects of transactions that have the effect of circumventing these sections are not allowable under the principle that the substance of the transaction must prevail over its form; and
- E. costs that are incurred due to management inefficiency, unnecessary care or facilities agreements not to compete, or activities not commonly accepted in the ICF/MR industry, are not allowable.

Section 4.150 Pass through of training and habilitation services charges. Charges incurred by the ICF/MR for day training and habilitation services shall be paid as a pass-through payment.

Section 4.160 Workers' compensation insurance plans. The commissioner shall allow as workers' compensation insurance costs coverage obtained under the following conditions:

- A. A plan approved by the commissioner of commerce as a Minnesota group or individual self-insurance plan as provided in Minnesota law;
- B. A plan in which

(1) The facility, directly or indirectly, purchases workers' compensation coverage in compliance with Minnesota law from an authorized insurance carrier;

(2) A related organization to the facility reinsures the workers' compensation coverage purchased, directly or indirectly, by the facility; and

(3) All of the conditions in item D are met.

C. A plan in which:

(1) The facility, directly or indirectly, purchases workers' compensation coverage in compliance with Minnesota law from an authorized insurance carrier;

(2) The insurance premium is calculated retrospectively, including a maximum premium limit, and paid using the paid loss retro method; and

(3) All of the conditions in item D are met.

D. Additional conditions are:

(1) The reserves for the plan are maintained in an account controlled and administered by a person which is not a related organization to the facility;

(2) The reserves for the plan cannot be used, directly or indirectly, as collateral for debts incurred or other obligations of the facility or related organizations to the facility;

(3) If the plan provides workers' compensation coverage for non-Minnesota facilities, the plan's cost methodology must be consistent among all facilities covered by the plan, and if reasonable, is allowed notwithstanding any reimbursement laws regarding cost allocation to the contrary;

(4) Central, affiliated, corporate or facility costs related to their administration of the plan are costs which must remain in the facility's administrative cost category, and must not be allocated to other cost categories; and

(5) Required security deposits, whether in the form of cash, investments, securities, assets, letters of credit, or in any other form are not allowable costs for purposes of establishing the facilities' payment rates.

E. Any costs allowed pursuant to items A to C are subject to the following requirements:

(1) If the facility is sold or otherwise ceases operations, the plan's reserves must be subject to an actuarially based settle-up after 36 months from the date of sale or the date on which operations ceased. The facility's medical assistance portion of the total excess plan reserves must be paid to the state within 30 days following the date on which excess plan reserves are determined;

(2) Any distribution of excess plan reserves made to or withdrawals made by the facility or a related organization are applicable credits and must be used to reduce the facility's workers' compensation insurance costs in the reporting period in which a distribution or withdrawal is received, and

(3) If the plan is audited pursuant to the Medicare program, the facility must provide a copy of Medicare's final audit report, including attachments and exhibits, to the commissioner within 30 days of receipt by the facility or any related organization. The commissioner shall implement the audit findings associated with the plan upon receipt of Medicare's final audit report. The department's authority to implement the audit findings is independent of its authority to conduct a field audit.

F. The Department shall have the authority to adopt emergency rules to implement this section.

SECTION 5.000 NONALLOWABLE COSTS.

The costs listed in this part are not allowable for purposes of establishing total payment rates. If any of the costs in this part are included in any account of the provider or provider group, they must be identified on the facility's cost report.

A. Contributions, including charitable contributions, and contributions to political action committees or campaigns.

B. Salaries and expenses of a lobbyist.

C. Assessments made by or the portion of dues charged by associations or professional organizations for lobbying, contributions to political action committees or campaigns, or litigation, except for successful challenges to decisions of agencies of Minnesota. When the

breakdown of dues charged to a facility by an association or professional organization is requested by the Department and is not provided, the entire cost shall be disallowed.

D. Advertising designed to encourage potential residents to select a particular facility. This item does not apply to a total expenditure of \$2,000 or less for all notices placed in the telephone yellow pages for the purpose of stating the facility's name, location, telephone number, and general information about services in the facility.

E. Assessments levied by the Department of Human Services or the Minnesota Department of Health for uncorrected violations.

F. Purchases or activities not related to resident care such as flowers or gifts for employees or providers, employee parties, and business meals except as in Section 6.030, item O.

G. Penalties, including interest charged on the penalty, interest charges which result from an overpayment, and bank overdraft or late payment charges.

H. Costs related to the purchase and care of pets which exceed the lesser of \$20 per year per licensed bed, or \$200 per year per facility.

I. Costs of sponsoring nonresident activities such as athletic teams and beauty contests.

J. Premiums on a life insurance policy for an owner or board member, of a facility, or for an employee of a related organization, except that the premiums shall be allowed if:

(1) the coverage is included in the policy provided for all employees;

(2) the coverage and premium is comparable to that provided for all employees; and

(3) the insured person is an employee of the provider or related organization;
or

(4) such a policy is required as a condition of mortgage or loan for the facility and the mortgagee or lending institution is listed as the beneficiary.

K. Personal expenses of owners and employees, such as vacations, boats, airplanes, personal travel or vehicles, and entertainment.

L. Employee's or owner's membership or other fees for social, fraternal, sports, health, or similar organizations.

M. Training programs for anyone except residents, facility employees, volunteers in the facility, or a resident's family or legal guardians.

N. Training programs to meet the minimum educational requirements of a position, education that leads to a degree, or education that qualifies the employee for a new trade or profession.

O. Bad debts and related bad debt collection fees.

P. Costs of fund raising activities.

Q. Costs of personal need items, such as personal clothing, normally paid for by residents.

R. Costs incurred in providing other than ICF/MR services such as the costs of apartments, day activity center or work activity center costs, regular travel costs to attend day activity or work activity centers, and semi-independent living skills services (SILS).

S. Operating costs for goods and services to the extent that the goods and services are financed by gifts or grants from public funds. A transfer of funds from a local government unit to its governmentally owned facility is not a gift or grant under this item.

T. Telephones, televisions, and radios provided in a resident's room.

U. Costs of agreements not to compete.

V. Costs of services provided to a resident by a licensed medical, therapeutic, or rehabilitation practitioner or any other vendor of medical care which are billed separately on a fee for service basis, including:

(1) purchase of service fees paid to the vendor or his or her agent who is not an employee of the facility or the compensation of the practitioner who is an employee of the facility;

(2) allocated compensation and related costs of any facility personnel assisting in providing these services; and

(3) allocated cost of any operating or property-related cost for providing these services such as housekeeping, laundry, maintenance, medical records, payroll taxes, space, utilities, equipment, supplies, bookkeeping, secretarial, insurance, and supervisory and administrative staff costs.

If any of the expenses in subitems (1) to (3) are incurred by the provider, these expenses must be reported under nonreimbursable expenses together with any of the income received or anticipated by the facility, including any charges by the provider to the vendor.

W. Allowances for uniforms unless required by governmental rules or regulations.

X. Costs of therapeutic overnight trips, camping, or vacations for residents except as in Section 4.110.

Y. Legal and related expenses for unsuccessful challenges to decisions of governmental agencies.

Z. Fringe benefits or payroll taxes associated with disallowed salary costs.

AA. Costs of approved services provided to very dependent persons with a special needs rate exception approved under Section 16.000.

BB. Payments made in lieu of real estate taxes, unless such payments are made according to a legally enforceable, noncancelable, written contract entered into prior to January 1, 1986.

CC. Costs incurred for activities directly related to influencing employees with respect to unionization.

DD. Costs associated with changes in ownership or reorganization of provider entities, including legal fees, accounting fees, administrative costs, travel costs, and the costs of feasibility studies attributed to the negotiation or settlement of a change in ownership or reorganization.

EE. Accruals of vacation and sick leave for employees who are not fully vested.

FF. Costs for pension or profit sharing plans which do not meet the requirements of Section 4.100, or costs for workers' compensation insurance plans which do not meet the requirements of Section 4.160.

GG. Costs for which adequate documentation is not maintained or provided.

SECTION 6.000 REPORTING BY COST CATEGORY.

Section 6.010 **Program operating costs.** The direct costs of program functions must be reported in the program operating cost category. These costs include:

A. salaries of program staff, including the program director, unit coordinators, and nursing staff;

B. supplies;

C. consultant or purchased services;

D. program staff training including the cost of lodging and meals, to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position, or to maintain or update skills needed in performing the employee's present duties;

E. therapeutic overnight trips, camping, or vacations for residents within the limitations of Section 4.110;

F. membership or other fees for resident participation and staff supervision in social, sports, health, or similar organizations;

G. the operating costs of a facility owned vehicle except staff compensation costs, or reimbursement for mileage for use of a personal vehicle, to the extent that the vehicle is used to transport residents for program purposes;

H. telephone, television, and radio services provided in areas designated for use by the general resident population, such as lounges and recreation rooms;

I. payroll taxes and fringe benefits allocated in accordance with Section 3.060;

J. accrued vacation and sick leave; and

K. repairs necessitated solely as a result of destructive resident behavior.

Section 6.020 **Maintenance operating costs.** The costs listed in this section are included in the maintenance operating cost category.

A. Direct costs of dietary services, including:

- (1) salaries of dietary staff;
- (2) food;
- (3) supplies;
- (4) consultant services;
- (5) purchased services; and
- (6) accrued vacation and sick leave.

B. Direct costs of laundry and linen services include:

- (1) salaries of laundry staff;
- (2) supplies;
- (3) linen and bedding;
- (4) purchased services; and
- (5) accrued vacation and sick leave.

C. Direct costs of housekeeping services include:

- (1) salaries of housekeeping staff;
- (2) supplies;
- (3) purchased services; and
- (4) accrued vacation and sick leave.